

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LEON THOMAS BURNETT §
VS. § CIVIL ACTION NO. 1:11cv679
DIRECTOR, TDCJ-CID §

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Leon Thomas Burnett, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court.

The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the petition be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Objections were filed to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court concludes the objections are without merit. At the time he received a federal sentence of imprisonment, petitioner was serving a state sentence. Before he discharged his initial state sentence, petitioner received additional state sentences. He asserts that upon completion of his initial state sentence, he should be transferred to federal custody to serve his federal sentence before serving his additional state sentences. Petitioner's situation is identical to the petitioner in *Disiere v. Dretke*, 115 Fed.Appx. 210 (5th Cir. 2004). In that case, the United States Court of Appeals for the Fifth Circuit concluded the petitioner's contention regarding when he should begin serving his federal sentence were without merit. Similarly, the petition pending before this court is also without

merit and will be denied.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment shall be entered dismissing the petition in accordance with the recommendation of the Magistrate Judge.

SIGNED this the 1 day of May, 2012.



Thad Heartfield
United States District Judge